



This document is scheduled to be published in the Federal Register on 12/31/2013 and available online at <http://federalregister.gov/a/2013-31151>, and on FDsys.gov

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 25, and 52

[FAC 2005-72; FAR Case 2013-021; Item IV; Docket No. 2013-0021, Sequence No. 1]

RIN 9000-AM67

Federal Acquisition Regulation; Trade Agreements Thresholds

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to incorporate revised thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements, as determined by the United States Trade Representative.

DATES: Effective: January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at 202-219-0202 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat

at 202-501-4755. Please cite FAC 2005-72, FAR case 2013-021.

SUPPLEMENTARY INFORMATION:

I. Background

Every two years, the trade agreements thresholds are adjusted according to a pre-determined formula under the agreements. These thresholds become effective on January 1, 2014. On December 18, 2013 (78 FR 76700), the United States Trade Representative published new procurement thresholds. The United States Trade Representative has specified the following new thresholds:

Trade Agreement	Supply Contract (equal to or exceeding)	Service Contract (equal to or exceeding)	Construction Contract (equal to or exceeding)
WTO GPA	\$204,000	\$204,000	\$7,864,000
FTAs			
Australia FTA	79,507	79,507	7,864,000
Bahrain FTA	204,000	204,000	10,335,931
CAFTA-DR (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua)	79,507	79,507	7,864,000
Chile FTA	79,507	79,507	7,864,000
Colombia FTA	79,507	79,507	7,864,000
Korea FTA	100,000	100,000	7,864,000
Morocco FTA	204,000	204,000	7,864,000
NAFTA			

–Canada	25,000	79,507	10,335,931
–Mexico	79,507	79,507	10,335,931
Oman FTA	204,000	204,000	10,335,931
Panama FTA	204,000	204,000	7,864,000
Peru FTA	204,000	204,000	7,864,000
Singapore FTA	79,507	79,507	7,864,000
Israeli Trade Act	50,000	–	–

II. Discussion and Analysis

This final rule implements the new thresholds in FAR subpart 25.4, Trade Agreements, and other sections in the FAR that include trade agreements thresholds (i.e., 22.1503, 25.202, 25.603, 25.1101, and 25.1102).

In addition, changes are required to the clauses 52.204-8, Annual Representations and Certifications, and 52.222-19, Child Labor–Cooperation with Authorities and Remedies, with conforming changes to the clause dates in 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders–Commercial Items, and 52.213-4, Terms and Conditions–Simplified Acquisitions (Other Than Commercial Items).

III. Publication of this final rule for public comment is not required by statute

"Publication of proposed regulations," 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the

statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it only adjusts the thresholds according to pre-determined formula to adjust for changes in economic conditions, thus maintaining the status quo, without significant effect beyond the internal operating procedures of the Government.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not

subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Regulatory Flexibility Act.

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision and 41 U.S.C. 1707 does not require publication for public comment.

VI. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C chapter 35) does apply, because the final rule affects the prescriptions for use of the certification and information collection requirements in the provisions at 52.225-4 (OMB Control No. 9000-0130, Buy American Act–Free Trade Agreement–Israeli Trade Certificate), and 52.225-6 (OMB Control No. 9000-0025, Trade Agreements Certificate), and the clauses at 52.225-9, 52.225-11, 52.225-21, and 52.225-23 (OMB Control No. 9000-0141, Buy American–Construction) respectively. However, there is no impact on the estimated burden hours, because the threshold changes are in line with inflation and maintain the status quo.

List of Subjects in 48 CFR Parts 22, 25, and 52

Government procurement.

Dated: December 19, 2013.

William Clark,
Acting Director,
Office of Government-wide
Acquisition Policy,
Office of Acquisition Policy,
Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 22, 25, and 52 as set forth below:

1. The authority citation for 48 CFR parts 22, 25, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT

ACQUISITIONS

22.1503 [Amended]

2. Amend section 22.1503 by removing from paragraph (b)(1) "Subpart" and adding "subpart" in its place.

3. Amend section 22.1503 by removing from paragraph (b)(3) "\$77,494" and "Subpart", and adding "\$79,507" and "subpart" in its place, respectively.

4. Amend section 22.1503 by removing from paragraph (b)(4) "\$202,000" and adding "\$204,000" in its place.

PART 25—FOREIGN ACQUISITION

25.202 [Amended]

5. Amend section 25.202 by removing from paragraph (c) "\$7,777,000" and "Subpart", and adding "\$7,864,000" and "subpart" in its place, respectively.

6. Amend section 25.402 by revising the table in paragraph (b) to read as follows:

25.402 General.

* * * *

(b) * *

Trade Agreement	Supply Contract (equal to or exceeding)	Service Contract (equal to or exceeding)	Construction Contract (equal to or exceeding)
WTO GPA	\$204,000	\$204,000	\$7,864,000
FTAs			
Australia FTA	79,507	79,507	7,864,000
Bahrain FTA	204,000	204,000	10,335,931
CAFTA-DR (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua)	79,507	79,507	7,864,000
Chile FTA	79,507	79,507	7,864,000
Colombia FTA	79,507	79,507	7,864,000
Korea FTA	100,000	100,000	7,864,000
Morocco FTA	204,000	204,000	7,864,000
NAFTA			
—Canada	25,000	79,507	10,335,931
—Mexico	79,507	79,507	10,335,931
Oman FTA	204,000	204,000	10,335,931
Panama FTA	204,000	204,000	7,864,000
Peru FTA	204,000	204,000	7,864,000
Singapore FTA	79,507	79,507	7,864,000
Israeli Trade Act	50,000	—	—

25.603 [Amended]

7. Amend section 25.603 by removing from paragraph (c) (1) "\$7,777,000" and adding "\$7,864,000" in its place.

25.1101 [Amended]

8. Amend section 25.1101 by—

- a. Removing from paragraph (b) (1) (i) (A) "\$202,000" and adding "\$204,000" in its place;
- b. Removing from paragraph (b) (1) (iii) "\$77,494" and adding "\$79,507" in its place;
- c. Removing from paragraph (b) (1) (iv) "\$77,494" and adding "\$79,507" in its place;
- d. Removing from paragraph (b) (2) (iii) "\$77,494" and adding "\$79,507" in its place;
- e. Removing from paragraph (b) (2) (iv) "\$77,494" and adding "\$79,507" in its place;
- f. Removing from paragraph (c) (1) "\$202,000" and "Subpart", and adding "\$204,000" and "subpart" in its place, respectively; and
- g. Removing from paragraph (d) "\$202,000" and adding "\$204,000" in its place.

25.1102 [Amended]

- 9. Amend section 25.1102 by—
 - a. Removing from the introductory text of paragraph (a) "\$7,777,000" and adding "\$7,864,000" in its place;
 - b. Removing from the introductory text of paragraph (c) "\$7,777,000" and adding "\$7,864,000" in its place;
 - c. Removing from paragraph (c) (3) "\$7,777,000" and "\$10,074,262", and adding "\$7,864,000" and "\$10,335,931" in its place, respectively; and

d. Removing from paragraph (d)(3) "\$7,777,000" and "\$10,074,262", and adding "\$7,864,000" and "\$10,335,931" in its place, respectively.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

10. Amend section 52.204-8 by—

a. Revising the date of the clause;

b. Removing from paragraph (c)(1)(xvii)(C) "\$77,494" and adding "\$79,507" in its place; and

c. Removing from (c)(1)(xvii)(D) "\$77,494" and adding "\$79,507" in its place.

The revised text reads as follows:

52.204-8 Annual Representations and Certifications.

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ANNUAL REPRESENTATIONS AND CERTIFICATIONS ([INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER])

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11. Amend section 52.212-5 by revising the date of the clause and paragraph (b)(27) to read as follows:

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

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CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS ([INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER])

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(b) * * *

___(27) 52.222-19, Child Labor-Cooperation with Authorities and Remedies ([INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER]) (E.O. 13126).

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12. Amend section 52.213-4 by revising the date of the clause and paragraph (b)(1)(ii) to read as follows:

52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL ITEMS) ([INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER])

* * * * *

(b) * * *

(1) * * *

(ii) 52.222-19, Child Labor—Cooperation with Authorities and Remedies ([INSERT ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER]) (E.O. 13126). (Applies to contracts for supplies exceeding the micro-purchase threshold.)

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13. Amend section 52.222-19 by—

a. Revising the date of the clause;

b. Removing from paragraph (a)(3) "\$77,494" and adding "\$79,507 in its place; and

c. Removing from paragraph (a)(4) "\$202,000" and adding "\$204,000" in its place.

The revised text reads as follows:

52.222-19 Child Labor—Cooperation with Authorities and Remedies.

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CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES ([INSERT
ABBREVIATED MONTH AND YEAR OF PUBLICATION IN THE FEDERAL REGISTER])

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[BILLING CODE 6820-EP]

[FR Doc. 2013-31151 Filed 12/30/2013 at 8:45 am;

Publication Date: 12/31/2013]